

**REGULAR MEETING
6:30 P.M.**

- I. **Call to Order:** The Regular Meeting of the Lowell Planning Commission was called to order by Acting Chairman Pro Tem Darrin Dickson on November 17, 2003, at 6:32 P.M. at the Lowell Administration Building.
- II. **Roll Call:** On roll call the following Commissioners responded: Darrin Dickson, Gene Graham, Paul Farris Keith Williams, Salena Wright-Brown and Mitchel Wright. Also present were Phil Biggers, Mayor, Phil Swope, City Engineer, and Secretary Kelly Kennedy. A quorum was present.
- III. **Absent:** Commissioner Mike Hook
- IV. **Approval of Minutes:** Pro tem Chairman Dickson asked for approval of the minutes of the regular meeting of November 3, 2003 and asked for any discussion, corrections or errors. Chairman Dickson asked for a motion.

Commissioner Graham then moved to accept the minutes as written. Commissioner Farris seconded the motion. A voice vote was then taken; the minutes were approved with no dissenting votes. The motion was carried.

- V. **Approval of Board of Adjustment Minutes:** Pro tem Chairman Dickson stated that there was an addition to the Agenda that being the approval of the Board of Adjustment minutes, as there were no items to be heard for the Board of Adjustments.

Commissioner Graham then moved to accept the minutes as written. Commissioner Williams seconded the motion. A voice vote was then taken; the minutes were approved with no dissenting votes. The motion was carried.

VI.

Public Hearing: Planned Unit Development District Ordinance (PUD)

Pro tem Chairman Dickson opened the Public Hearing at 6:35pm and invited any interested parties to present to the podium to state their opinions.

Eric Haussermann presented to the podium and stated his approval of the PUD, he stated it follows the outlines of both Bentonville's and Springdale's new ordinances. He further stated in his opinion this type of ordinance is long overdue. He stated that his research indicated that in prior ordinances the PUD was included, however in the most recent code, it was not included. He stated that it falls within the Spirit of the growth of Northwest Arkansas, it will help us to better accommodate development and a better usage of the land with open spaces. He further stated that it is a very easy ordinance to follow. It is a combined PUD that encompasses all types of building needs.

CITY OF LOWELL PLANNING COMMISSION MEETING MINUTES NOVEMBER 17, 2003

Engineer Swope informed the Commission that Jeff Hawkins with Regional Planning who helped put the PUD together was present to answer any questions. Pro tem Chairman Dickson stated that they would consult Mr. Hawkins during the Commissioners discussion period.

Allen Turner, City Councilman and Chairman of the Ordinance Committee presented to the podium and stated that the PUD has gone through the Ordinance Committee for Preliminary review, it was in general fine but with a few changes suggested by Engineer Swope and if there were additional changes to be made that they be made and brought back to the Ordinance Committee for approval before going before the Council, however, if the Planning Commission were comfortable with the language, then it would only need approval by the Commission then it could go before the Council.

Pro tem Chairman Dickson stated his concern that the document was not ready for approval to City Council and questioned the need for a public hearing. Jeff Hawkins from Regional Planning stated that with regard to Public Comment, things may be brought up that would not necessarily be thought of and could be added to the Ordinance.

Pro tem Chairman Dickson closed the Public Hearing at 6:38pm and opened the floor for discussion from the Commissioners. He reminded the Commissioners that Jeff Hawkins from Regional Planning was in the audience and was available to answer any questions that might arise regarding PUDs in general or this one specifically.

Pro tem Chairman Dickson stated that he had some clarifications on Section 2B regarding minimum district area whether or not ½ acre was too small of a piece of land and what did some of the other towns and municipalities are doing. Jeff Hawkins responded that he has seen lot size go anywhere from a city block to 750 acres. Mr. Hawkins stated that typically the lot size is 2-3 acres, the reason that he suggested the half acre was due to the possibility of the redevelopment of a city block, if someone wanted to knock down houses and re-do new housing on a block, the only way that they could possibly do that is by using a PUD. The ordinance in an area like that now wouldn't allow a developer to develop an entire city block. Mr. Hawkins stated that most of the PUDs allow for 2-3 acres.

Commissioner Graham stated that if there were only ½ acres then the roads across around it would come off the ½ acre; it would then be a very small lot then. Commissioner Wright-Brown added that 20% of the land would have to have green space as well. Mr. Hawkins stated that the density should be included with green space not roads. Commissioner Graham reiterated his concern that with the road space included, the amount of building space would only come to 8,000 feet. Pro tem Chairman Dickson read from the PUD stating that ½ of the area of all boundary or perimeter streets are included in that ½ acre, which would leave one third of an acre to build on. Commissioner Wright-Brown mentioned that after that there still needed to be 20% of green space.

Pro tem Chairman Dickson restated his concern for the ½ acre language and Commissioner Graham asked for the language to be changed to 2 or 3 acres. Pro tem Chairman Dickson questioned if there were a way to change the language of the PUD to state that with special approval it could be down to a half acre, with the norm being a minimum of 2 acres without Council approval. Commissioner Farris agreed with the two acre minimum. Pro tem Chairman Dickson then stated that one of the recommendations to the Ordinance Committee would be to change the language of the PUD, with a remedy for the Council to make a variance or special use under certain circumstances.

Commissioner Williams stated that if the language was to be changed then it also needed to be changed on 5A and 5A1 to read 2 acres.

Pro tem Chairman Dickson stated that the second question that he had was concerning Section 5C second paragraph with regard of approval for the use list- permitted by right uses. The language of the PUD states that it would have to be approved by the Planning Commission and the City Council. The question was asked if the City Council currently must approve Conditional Use. Engineer Swope stated that currently it is just the Planning Commission that makes those approvals. Pro tem Chairman Dickson asked if the City Council wanted to have some over sight of that. Engineer Swope explained that listed uses are zoning issues therefore any re-zoning would go before the Council, in the same way, a use issue would still come before the Council, the language of the PUD will reflect the need for public hearing for variances and re-zones. Mr. Hawkins explained that the re-zone procedure is spelled out on page 4 section 3B. Engineer Swope explained that the first part of the PUD is laying out in big picture, and then the second part is to explain it further in detail.

Pro tem Chairman Dickson then stated that he was also concerned about paragraph D on Page 2, which talks about street parking zone ordinances. The question was whether or not there is a zoning ordinance that covers the parking or if it's actually an off street parking ordinance. Mr. Hawkins replied that parking is typically part of zoning and parking requirements. Pro tem Chairman Dickson questioned whether or not the Council had just passed an off street parking ordinance for certain streets overnight. Mr. Hawkins clarified that it would be a traffic ordinance rather than a use specific ordinance. Engineer Swope stated that the recent ordinance would supercede the PUD. Developers would still have to follow procedures i.e. Filing a Large Scale Development plan after they have come through the PUD zoning and all of the Overlay District regulations would still apply. Engineer Swope state that the PUD would be a negotiation process and that the developers would be held to whatever was agreed upon during that process.

Mr. Hawkins stated that the intent of the PUD is to lay out the proposed zoning, the uses by right it goes to the Planning Commission, which would have the same procedures and Public Hearing procedures.

However it would lay out the uses by right, you would have a preliminary conceptual discussion, the developer would meet with the planning & Engineering department, to look at the general concept, the city then would tell them what would be expected of them, and then they would come back with a preliminary plat and a rezone request to be rezoned together. They would have a proposed list that they would have submitted, explaining what type of PUD it was, whether it would be a residential PUD or if it was a mixed use PUD, and these are the uses that the developer wished to “use by right”, that it will be permitted, also there would be a list of Conditional Uses that may or may not be approved during the course of development of the PUD. It will have sufficient detail of what is going in and where it’s going in on the overall plan, it may have definitive lot lines and established setback lines on the plat itself, once the plat is approved that development can only go in based on the uses that were approved, the location that they were approved for with the set backs and amenities that were approved as part of the plan and the final plat. It is basically your site development plan, it will be an all encompassing thing, it will include a rezone, and a final plat and it will serve as your site plan, it can go into that much detail, regarding what buildings, what sizes are located and what configurations with certain set backs. It can be the “monster you make it”.

Pro tem Chairman Dickson asked Engineer Swope if he had been able to investigate how some of the other towns with PUDs work, the processes in the Planning Departments, how they work. Engineer Swope stated that he had and that he was familiar with the process he has taken some through other cities before himself.

Engineer Swope stated that the good thing about this is that if there is a developer that wants to rezone from an A-1 to an R-3, for example, anything listed as an R-3 permitted uses in our zoning code is allowed, if he then sells the property, whatever he chooses to do with it is then allowed, the benefit of the PUD ordinance is that plan is binding on that development, once it is rezoned to PUD whatever plan came through and was approved, no matter what the developer does with the property, only that can be built on the property. With the PUD we will have something that is binding and has bite, we can hold a developer to that, which is what makes a PUD so important. The question continues to arise, we rezone something to R-3, we know what the developer wants to do is nice, but then the developer could sell it and it could be anything, but with the PUD they can be held to that.

Pro tem Chairman Dickson then asked Engineer Swope what type of tools to expect the Planning Department to be providing to the Planning Commission. Engineer Swope affirmed Mr. Hawkins description of the “monster you make it” comment stating that now there will be a lot more discussion with Planning Commission Members, it is not as clear cut guidelines as with the normal zoning ordinances that we currently have, if passed it will be a negotiation process, there may be certain areas where the developer wants some flexibility but in return the Planning Commission may want something else, so there will be a lot more discussion as the plans come through.

Pro tem Chairman Dickson stated that he understood it to be a learning process, but that he wanted to make sure that he is prepared to answer questions as to what is being given up, what are the pros, the cons to have a process to lay all of that out for them. Engineer Swope stated that it the normal process that they are used to going through, but that it's the zoning process that is more elaborate. Once you get through the PUD Zoning process, the implementation is just a matter of holding the developers to what was agreed upon; everything else is just the same.

Mr. Hawkins stated that the parking issue that was brought up is in the current Land Development Code §8-212, for example is states one space for every 4 seats for restaurant, that same standard would apply in the PUD, which is one part that wouldn't be negotiated out. In many larger cities that have done this a lot, the thing that you have to be careful about, is that they can be a blessing or a curse, it's got to be mutually beneficial to both parties, to the developer and to the city, in order for you to waive certain regulations or to give special consideration on uses, design, you need to get something back in return for that. Some cities will tell you that the most important thing to be cognizant of is not to make it so easy as to be taken advantage of it, so that there are so many PUDs that the city would be inundated, it has be there to serve the city not so that developers can get around regulations.

Bill Neil asked the question about Springdale that has been broken up by a PUD approved Subdivision, and there are constantly having changes that are contrary to their PUD Ordinance. Mr. Hawkins replied that there are provisions for amendments, changes or even termination of a PUD... it can and should be done in phases, a phase should be able to stand on its own, you wouldn't be able to ask for green space in return for something that happened in phase 1, it has to be something that is equitable & proportional to each phase so that as you go along if the next phase doesn't get done then you did get something in return for what you gave up as the city. There are provisions for changes in the PUD.

Pro tem Chairman Dickson explained that there is good language in the PUD to provide remedies and to protect the city from certain situations from occurring. Commissioner Graham stated that Mr. Neil might be concerned with the section 5 E Revocation of the PUD under certain conditions.

Mayor Biggers addressed Mr. Neil's concern by replying that the Springdale City Council and Planning Commission had to have approved the changes in their PUD that their changes were not arbitrary.

Commissioner Wright-Brown noted that it was a learning process during the Overlay District regulations to test it the first few times it came through, she asked if there was a way to better prepare for the process, by during then next work session examples of how to go through the PUD process. This way it would be educational before the real thing occurs.

Engineer Swope stated that he & Mr. Hawkins were planning to take a sample one thru the process.

Pro tem Chairman Dickson asked if there were any other comments from Commissioners. He then stated that he felt comfortable in a motion to approve to recommend to the Council with the 2 acre minimum and a paragraph for a waiver to go before the Council to go lower if need be.

Commissioner Graham then made the motion to accept the PUD and to recommend it to the City Council with the changes of the ½ acre to 2 acres. Commissioner Williams seconded the motion. On roll call vote there were 6 ayes and 0 nays. The motion carried.

VII. Old Business: None

VII. Presentations & Discussions:

Mr. Hawkins added that on page 4 of the PUD it states that pre- application plans should be submitted to the Planning Commission, it should in fact read to the Planning Department. Pro tem Chairman Dickson stated that he was comfortable with making it an off line change to have the wording changed. There was no objection from the floor.

VIII. Commissioner Wright moved to adjourn the meeting with a second by Commissioner Williams. On voice vote it was unanimous. The motion carried. The meeting was adjourned at 7:04 pm.

APPROVED:

Mike Hook, Chairman

ATTEST:

Kelly Kennedy, Secretary